

104TH CONGRESS  
2D SESSION

# S. 2094

To inform and empower consumers in the United States through a voluntary labeling system for wearing apparel and sporting goods made without abusive and exploitative child labor, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 1996

Mr. HARKIN introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To inform and empower consumers in the United States through a voluntary labeling system for wearing apparel and sporting goods made without abusive and exploitative child labor, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Child Labor Free  
5       Consumer Information Act of 1996”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds that—

1           (1) the Secretary of Labor has conducted 2 de-  
2           tailed studies that document the fact that abusive  
3           and exploitative child labor exists worldwide;

4           (2) the Secretary of Labor has also determined,  
5           through the studies referred to in paragraph (1),  
6           that child laborers are often forced to work beyond  
7           their physical capacities and under conditions that  
8           threaten their health, safety, and development, and  
9           are denied basic educational opportunities;

10          (3) in most instances, countries that have abu-  
11          sive and exploitative child labor also experience a  
12          high adult unemployment rate;

13          (4) the International Labor Organization (com-  
14          monly known as the “ILO”) estimates that hun-  
15          dreds of millions of children are full-time workers,  
16          and many of those children manufacture wearing ap-  
17          parel and sporting goods that are offered for sale in  
18          the United States;

19          (5) consumers in the United States spend bil-  
20          lions of dollars each year on wearing apparel and  
21          sporting goods made by abusive and exploitative  
22          child labor;

23          (6) consumers in the United States have the  
24          right to information on whether the items of wearing

1 apparel and sporting goods that they purchase are  
 2 made without abusive and exploitative child labor;

3 (7) the labeling of wearing apparel and sporting  
 4 goods would provide the information referred to in  
 5 paragraph (5) to consumers; and

6 (8) it is important to recognize United States  
 7 businesses that have effective programs to ensure  
 8 that products sold in the United States are not  
 9 made with abusive and exploitative child labor.

## 10 **TITLE I—CHILD LABOR FREE** 11 **LABELING STANDARDS**

### 12 **SEC. 101. LABELING STANDARDS.**

13 (a) ESTABLISHMENT OF LABELING STANDARDS.—

14 (1) IN GENERAL.—Not later than 180 days  
 15 after the date of enactment of this Act, the Sec-  
 16 retary of Labor, in consultation with the Child  
 17 Labor Free Commission established under section  
 18 201 shall issue regulations to ensure that a label  
 19 using the terms “Not Made With Child Labor”,  
 20 “Child Labor Free”, or any other term or symbol re-  
 21 ferring to child labor does not make a false state-  
 22 ment or suggestion that the article or section of  
 23 wearing apparel or sporting good was not made with  
 24 child labor. The regulations developed under this  
 25 section shall encourage the use of an easily identifi-

1       able symbol or term indicating that the article or  
2       section of wearing apparel or sporting good was not  
3       made with child labor.

4           (2) NOTIFICATION ON USE.—A producer, im-  
5       porter, exporter, distributor, or other person intend-  
6       ing to use any label referred to in paragraph (4)  
7       shall notify the Commission not later than 60 days  
8       after the product bearing that label becomes avail-  
9       able to the public for purchase. Upon receipt of the  
10      notification, the Commission shall review the notifi-  
11      cation. A response from the Commission shall not be  
12      required for use of the label.

13          (3) FEE.—The Secretary is authorized to  
14      charge a fee to cover the expenses of the Commis-  
15      sion in reviewing a notification under paragraph (2).  
16      The level of fees charged under this subparagraph  
17      shall not exceed the administrative costs incurred in  
18      reviewing a notification. Fees collected under this  
19      paragraph shall be available to the Secretary of  
20      Labor for expenses incurred in the review and re-  
21      sponse of the Commission under this subsection.

22          (4) APPLICABILITY.—The regulations issued  
23      under paragraph (1) shall apply to any label con-  
24      tained in—

1 (A) an article or section of wearing apparel  
2 or sporting good that is exported from or of-  
3 fered for sale in the United States; or

4 (B) any packaging thereof.

5 (b) VIOLATION OF SECTION 5 OF THE FEDERAL  
6 TRADE COMMISSION ACT.—It is a violation of section 5  
7 of the Federal Trade Commission Act for any producer,  
8 importer, exporter, distributor, or seller of any article of  
9 wearing apparel (or section of an article of wearing ap-  
10 parel) or sporting good that is exported from or offered  
11 for sale in the United States—

12 (1) to falsely indicate on the label of that article  
13 (or section) or sporting good or the packaging of the  
14 article (or section) or sporting good that the article  
15 (or section) or sporting good was not made with  
16 child labor; or

17 (2) to otherwise falsely claim or suggest that  
18 the article (or section) or sporting good was not  
19 made with child labor.

20 (c) AMENDMENT TO THE FEDERAL TRADE COMMIS-  
21 SION ACT.—Section 5(m)(1) of the Federal Trade Com-  
22 mission Act (15 U.S.C. 45(m)(1)) is amended—

23 (1) in subparagraph (A), by striking “The  
24 Commission” and inserting “Except as provided in  
25 subparagraph (D), the Commission”;

1           (2) in subparagraph (B), by striking “If the  
2       Commission” and inserting “Except as provided in  
3       subparagraph (D), if the Commission”; and

4           (3) by adding at the end the following new sub-  
5       paragraph:

6       “(D)(i) In lieu of the applicable civil penalty under  
7       subparagraph (A) or (B), in any case in which the Com-  
8       mission commences a civil action for a violation of section  
9       101 of the Child Labor Free Consumer Information Act  
10      of 1996 under subparagraph (A) or under subparagraph  
11      (B) for an unfair or deceptive practice that is considered  
12      to be a violation of this section by reason of section 101(b)  
13      of such Act, if that violation is a knowing or willful viola-  
14      tion, the amount of a civil penalty for the violation shall  
15      be determined under clause (ii).

16       “(ii) The amount of a civil penalty for a violation  
17      under clause (i) that is committed shall be—

18           “(I) for an initial violation, an amount equal to  
19      the greater of—

20           “(aa) 2 times the retail value of the arti-  
21      cles of wearing apparel or sporting goods mis-  
22      labeled; or

23           “(bb) \$200,000; and

24           “(II) for any subsequent violation, an amount  
25      equal to the greater of—

1 “(aa) 4 times the retail value of the arti-  
 2 cles of wearing apparel or sporting goods mis-  
 3 labeled; or

4 “(bb) \$400,000.”.

5 (d) SPECIAL FUND TO ASSIST CHILDREN.—

6 (1) CREATION OF FUND.—There is established  
 7 in the United States Treasury a special fund to be  
 8 known as the Free the Children Fund.

9 (2) DEPOSITS INTO FUND.—An amount equal  
 10 to the amount of penalties collected under this sec-  
 11 tion shall be deposited into the special fund. The  
 12 Secretary of the Treasury shall, upon request of the  
 13 Secretary of the Labor, make the amounts deposited  
 14 into the special fund available to the Secretary of  
 15 Labor for use by the Secretary of Labor for edu-  
 16 cational and other programs described in paragraph  
 17 (3).

18 (3) AUTHORIZATION.—Amounts deposited into  
 19 the special fund are authorized to be appropriated  
 20 annually for educational and other programs with  
 21 the goal of eliminating child labor.

22 **SEC. 102. REVIEW OF PETITIONS BY THE CHILD LABOR**  
 23 **FREE COMMISSION.**

24 (a) IN GENERAL.—In addition to the procedures es-  
 25 tablished under section 5 of the Federal Trade Commis-

1 sion Act, the Child Labor Free Commission established  
2 under section 201 shall assist the Federal Trade Commis-  
3 sion by reviewing petitions under this section.

4 (b) CONTENTS OF PETITIONS.—A petition under this  
5 section shall—

6 (1) be submitted in such form, and in such  
7 manner as the Federal Trade Commission, in con-  
8 sultation with the Child Labor Free Commission,  
9 shall prescribe;

10 (2) contain the name of the—

11 (A) petitioner; and

12 (B) person or entity involved in the alleged  
13 violation of the labeling standards under section  
14 101; and

15 (3) provide a detailed explanation of the alleged  
16 violation, including all available evidence.

17 (c) REVIEW BY COMMISSION.—The Commission  
18 shall—

19 (1) to the maximum extent practicable, not  
20 later than 90 days after receiving a petition, review  
21 the petition to determine whether there appears to  
22 have been a violation of the labeling standards; and

23 (2) upon completion of that review, forward  
24 that petition to the Federal Trade Commission, to-  
25 gether with a report by the Child Labor Free Com-



1 mission containing a determination by the Child  
2 Labor Free Commission whether—

3 (A) it is appropriate for the Federal Trade  
4 Commission, in consultation with the Secretary  
5 of Labor, to take such action as may be nec-  
6 essary under the Federal Trade Commission  
7 Act to cause the person or entity in violation of  
8 the labeling standards under section 101 to  
9 cease and desist from violating those standards;  
10 and

11 (B) there appears to have been a willful or  
12 repeated violation of the labeling standards.

13 **SEC. 103. COOPERATION BY THE SECRETARY OF COM-**  
14 **MERCE.**

15 (a) IN GENERAL.—If, in the course of an investiga-  
16 tion conducted by the Secretary of Commerce, the Sec-  
17 retary of Commerce discovers a violation of the require-  
18 ments of this Act, the Secretary of Commerce shall report  
19 that violation to the Secretary of Labor.

20 (b) ACTION BY THE SECRETARY OF LABOR.—The  
21 Secretary of Labor shall review each report made by the  
22 Secretary of Commerce under subsection (a), and, as ap-  
23 propriate, refer the violation to the Federal Trade Com-  
24 mission for enforcement under the Federal Trade Com-  
25 mission Act.

**TITLE II—CHILD LABOR FREE  
COMMISSION**

**SEC. 201. ESTABLISHMENT OF COMMISSION.**

(a) ESTABLISHMENT.—There is established a commission to be known as the Child Labor Free Commission.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 17 members, of whom—

(A) 1 shall be the Secretary of Commerce or a designee of the Secretary of Commerce;

(B) 1 shall be the Secretary of the Treasury or a designee of the Secretary of the Treasury;

(C) 1 shall be the United States Trade Representative or a designee of the United States Trade Representative;

(D) 1 shall be the Secretary of Labor or a designee of the Secretary of Labor, who shall serve as the Chairperson of the Commission;

(E) 3 shall be representatives of non-governmental organizations that work toward the eradication of abusive and exploitative child labor and in the promotion of human rights, appointed by the Secretary of Labor;

1 (F) 3 shall be representatives of labor or-  
2 ganizations, appointed by the Secretary of  
3 Labor;

4 (G) 3 shall be representatives of the wear-  
5 ing apparel industry, appointed by the Sec-  
6 retary of Labor;

7 (H) 3 shall be representatives of the sport-  
8 ing goods industry; and

9 (I) 1 shall be an additional member, ap-  
10 pointed by the Secretary of Labor.

11 (2) DATE.—The appointments of the members  
12 of the Commission shall be made not later than 60  
13 days after the date of enactment of this Act.

14 (c) PERIOD OF APPOINTMENT; VACANCIES.—

15 (1) FEDERAL EMPLOYEES.—Each member of  
16 the Commission who is an officer or employee of the  
17 United States shall be appointed for the life of the  
18 Commission. Any vacancy in the Commission shall  
19 not affect its powers, but shall be filled in the same  
20 manner as the original appointment.

21 (2) NON-FEDERAL MEMBERS.—Each member  
22 of the Commission who is not an officer or employee  
23 of the Federal Government shall serve for a term of  
24 4 years, except that in appointing the initial mem-

1       bers of the Commission, the Secretary of Labor shall  
2       stagger the terms of the non-Federal members.

3       (d) INITIAL MEETING.—Not later than 30 days after  
4 the date on which all members of the Commission have  
5 been appointed, the Commission shall hold its first meet-  
6 ing.

7       (e) MEETINGS.—The Commission shall meet at the  
8 call of the Chairperson or at the request of a majority  
9 of the members.

10       (f) QUORUM.—A majority of the members of the  
11 Commission shall constitute a quorum, but a lesser num-  
12 ber of members may hold hearings or other meetings.

13 **SEC. 202. DUTIES OF THE COMMISSION.**

14       The Commission shall—

15               (1) assist the Secretary of Labor in developing  
16 labeling standards under section 101; and

17               (2) assist the Secretary of Labor in developing  
18 and implementing a system to ensure compliance  
19 with the labeling standards established under section  
20 101, including—

21                       (A) receiving, reviewing, and making rec-  
22 ommendations for the resolution of petitions re-  
23 ceived under section 102 that allege noncompli-  
24 ance with the labeling standards under section  
25 101;

1           (B) making recommendations to the Sec-  
2           retary of Labor for the removal of labels subject  
3           to the standards under section 101 that are  
4           found to be in violation of those standards;

5           (C) assisting the Secretary of Labor in de-  
6           veloping and implementing a system to promote  
7           the increased use of the labeling standards  
8           under section 101;

9           (D) publishing, not less frequently than bi-  
10          annually, a list of persons and entities that  
11          have notified the Commission of their intent to  
12          use a label under section 101(a)(2); and

13          (E) publishing, not less frequently than bi-  
14          annually, a list of persons and entities found to  
15          be in violation of any provision of this Act; and

16          (3) not later than 1 year after the date of the  
17          establishment of the Commission, commence devel-  
18          oping an easily identifiable labeling standard that  
19          the Secretary of Labor shall issue to encourage the  
20          use of voluntary labels ensuring consumers that an  
21          article of wearing apparel or sporting good was  
22          made without the use of sweatshop or exploited  
23          adult labor.

1   **SEC. 203. POWERS OF THE COMMISSION.**

2       (a) HEARINGS.—The Commission may hold such  
3 hearings, sit and act at such times and places, take such  
4 testimony, and receive such evidence as the Commission  
5 considers advisable to carry out the duties of the Commis-  
6 sion under this title.

7       (b) INFORMATION FROM FEDERAL AGENCIES.—The  
8 Commission may secure directly from any Federal depart-  
9 ment or agency such information as the Commission con-  
10 siderers necessary to carry out the duties of the Commission  
11 under this title. Upon request of the Chairperson of the  
12 Commission, the head of such department or agency shall  
13 furnish such information to the Commission.

14       (c) POSTAL SERVICES.—The Commission may use  
15 the United States mails in the same manner and under  
16 the same conditions as other departments and agencies of  
17 the Federal Government.

18       (d) GIFTS.—The Commission may accept, use, and  
19 dispose of gifts or donations of services or property.

20   **SEC. 204. COMMISSION PERSONNEL MATTERS.**

21       (a) NON-FEDERAL MEMBERS.—Each member of the  
22 Commission who is not an officer or employee of the Fed-  
23 eral Government shall serve without compensation.

24       (b) FEDERAL MEMBERS.—Each member of the Com-  
25 mission who is an officer or employee of the United States  
26 shall serve without compensation in addition to that re-

1 ceived for that member's services as an officer or employee  
2 of the United States.

3 **SEC. 205. ADMINISTRATIVE AND SUPPORT SERVICES.**

4 The Secretary of Labor shall, to the extent permitted  
5 by law, provide the Commission with such administrative  
6 services, funds, facilities, staff, and other support services  
7 as may be necessary for the performance of its functions.

8 **TITLE III—RECOGNITION OF EX-**  
9 **EMPLARY CORPORATE EF-**  
10 **FORTS**

11 **SEC. 301. ANNUAL REPORT.**

12 Not later than 1 year after the date of enactment  
13 of this Act, and annually thereafter, the Secretary of  
14 Labor shall issue a report concerning companies that are  
15 making exemplary progress in ensuring that products  
16 made, sold, or distributed by those companies are not  
17 made with abusive and exploitative child labor.

18 **SEC. 302. ADDITIONAL METHODS.**

19 In addition to the reports made under section 301,  
20 the Secretary of Labor in consultation with the Commis-  
21 sion shall develop and implement other methods of provid-  
22 ing recognition for exemplary programs carried out by  
23 companies to ensure that products made, sold, or distrib-  
24 uted by those companies are not made with abusive and  
25 exploitative child labor.

## 1           **TITLE IV—DEFINITIONS**

### 2   **SEC. 401. DEFINITIONS.**

3           For purposes of this Act, the following definitions  
4 shall apply:

5           (1) CHILD.—The term “child” means—

6                   (A) an individual who has not attained the  
7 age of 15 years, as measured by the Julian cal-  
8 endar; or

9                   (B) an individual who has not attained the  
10 age of 14 years, as measured by the Julian cal-  
11 endar, in the case of an individual who resides  
12 in a country that, by law, defines a child as  
13 such an individual.

14           (2) COMMISSION.—The term “Commission”  
15 means the Child Labor Free Commission established  
16 under section 201.

17           (3) LABEL.—The term “label” means a display  
18 of written, printed, or graphic matter on or affixed  
19 to an article of wearing apparel or a sporting good  
20 or on the packaging of the article or a sporting good  
21 that meets the standards described in section  
22 101(a).

23           (4) MADE WITH CHILD LABOR.—

24                   (A) IN GENERAL.—A manufactured article  
25 or section of wearing apparel or a sporting good



1 shall be considered to have been made with  
2 child labor if the article or section—

3 (i) was fabricated, assembled, or proc-  
4 essed in whole or in part; or

5 (ii) contains any part that was fab-  
6 ricated assembled, or processed in whole or  
7 in part,

8 by any child described in subparagraph (B).

9 (B) COVERED CHILDREN.—A child is de-  
10 scribed in this subparagraph if that child en-  
11 gaged in the fabrication, assembly, or process-  
12 ing of the article or section—

13 (i) in exchange for remuneration  
14 (without regard to whom the remuneration  
15 is paid), subsistence, goods or services, or  
16 any combination thereof;

17 (ii) under circumstances tantamount  
18 to involuntary servitude; or

19 (iii) under exposure to toxic sub-  
20 stances or working conditions that other-  
21 wise pose serious health hazards.

22 (5) SPORTING GOOD.—The term “sporting  
23 good” shall have the meaning provided that term by  
24 the Secretary of Labor.

1           (6) WEARING APPAREL.—The term “wearing  
2       apparel” shall have the meaning provided that term  
3       by the Secretary of Labor.

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